

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18843
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On April 4, 2005, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner), proposing income tax, penalty, and interest for the years 2000, 2001, and 2002 in the total amount of \$6,552.

On May 27, 2005, a timely protest and petition for redetermination was filed by the petitioner. An informal hearing has not been requested by the petitioner. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

The petitioner filed resident income tax returns for the years 1996 through 1999 but has failed to file his 2000, 2001, and 2002 Idaho individual income tax returns. The petitioner has had an Idaho driver's license since 1991 and an Idaho Fish & Game license for 2001 that stated he has lived in Idaho since 1990. The petitioner has received a homeowner's exemption on his home at [Redacted] [Redacted] Idaho, since 1999. Idaho Code § 63-105DD provides that such exemptions may be granted only if the residence is owner occupied and used as the owner's primary dwelling place.

On October 16, 2003, and August 9, 2004, the Tax Discovery Bureau sent a letter with a questionnaire to the petitioner to help the Commission properly determine the petitioner's filing requirement. The petitioner did not respond to these letters, so [Redacted]. The Commission issued a NOD on April 4, 2005, to the petitioner [Redacted]. The NOD dated April 4, 2005, was returned

marked “unclaimed.”

On May 2, 2005, TDB sent another copy of the petitioner’s NOD by regular mail to give the petitioner an opportunity to review the NOD and to preserve his appeal rights. The petitioner’s protest letter was received May 27, 2005.

On June 3, 2005, TDB sent a letter to the petitioner acknowledging his protest. TDB informed the petitioner that income tax forms and instructions were available on the Commission’s website. TDB asked the petitioner to provide his completed returns by July 8, 2005. The petitioner did not respond to TDB’s letter.

On September 7, 2005, the Tax Policy Specialist (policy specialist) sent the petitioner a letter to inform him of his alternatives for redetermining a protested NOD. A follow-up letter was sent to the petitioner on October 27, 2005. The petitioner did not respond to either letter.

It is well settled in Idaho that a NOD issued by the Idaho State Tax Commission is presumed to be correct. Albertson’s Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the petitioner to show that the tax deficiency is erroneous. Id. Since the petitioner has failed to meet the burden in this case, the Tax Commission finds that the amount shown due on the Notice of Deficiency Determination is correct.

[Redacted] The petitioner has not provided the Commission with a contrary result to the determination of his income [Redacted]. Therefore, the Commission must uphold the deficiency.

WHEREFORE, the Notice of Deficiency Determination dated April 4, 2005, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
-------------	------------	----------------	-----------------	--------------

2000	\$3,047	\$762	\$1,025	\$4,834
2001	897	224	234	1,355
2002	474	119	94	<u>687</u>
			TOTAL DUE	<u>\$6,876</u>

Interest is computed through August 31, 2006.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2006, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.
